IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 22ND JANUARY 2007 / 2ND MAGHA 1928

Bail Appl..No. 335 of 2007()

Crl.MP.4404/2006 of SESSIONS COURT, ALAPPUZHA

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PETITIONER/ACCUSED 2 TO 5

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1. JAYAN, S/O. THANKAPPAN, AGED 25 YEARS,
   THEKKEKUTTAMASSERY, POLLETHAI,
   KALAVOOR, ALAPPUZHA DISTRICT.

2. KALESH, S/O. GOPALAKRISHNAN,
   AGED 31 YEARS, DEVASWOM VELI, POLLETHAI,
   KALAVOOR, ALAPPUZHA DISTRICT.

3. KUTTAN, S/O. THANKAPPAN, AGED 28 YEARS,
   KULACHIRA, POLLETHAI, KALAVOOR,
   ALAPPUZHA DISTRICT.

4. RETHEESH R., S/O. RADHAKRISHNA PILLAI,
   AGED 25 YEARS, CHAKANATU VELIYIL,
   POLLETHAI P.O., ALAPPUZHA DISTRICT.

BY ADV. SRI.G.PRIYADARSAN THAMPI

RESPONDENT: COMPLAINANT

STATE OF KERALA, REPRESENTING
SUB INSPECTOR OF POLICE,
MARARIKULAM POLICE STATION, REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SHRI JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 22/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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BAIL APPLICATION NO. 335 OF 2007

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DATED THIS THE 22ND DAY OF JANUARY, 2007

O R D E R

Petitioners who are accused 2 to 5 in Crime No.331/06 of Mararikulam Police Station for offences punishable under sections 143, 147, 148, 452, 324, 326 and 427 read with section 149 IPC, seek anticipatory bail.

2. Learned Public Prosecutor opposed the application.

3. The occurrence is alleged to have taken place at 9.30 PM on 24.12.2006 during when accused 1 to 4 and two other unidentifiable persons are alleged to have criminally trespassed into the house of the de facto complainant and assaulted them with deadly weapons causing injuries to the de facto complainant and his wife and destroying household articles and furniture to the tune of Rs.40,000/=.

4. In as much as the name of the 5th accused does not find a place in the first information statement, I am inclined to grant anticipatory bail to the 5th accused (4th petitioner). In the case of the other petitioners, accused 2 to 4, having regard to the facts and circumstances of the case, anticipatory bail cannot be granted to them. Accused 2 to 4 will have to surrender before the Investigating Officer for the purpose of custodial interrogation and then to have their

regular bail application considered by the Magistrate.

5. Accordingly, a direction is issued to the Investigating Officer to release the 5th accused Ratheesh on bail for a period of one month in the event of his arrest in connection with the above case on his executing a bond for Rs.10,000/- with two solvent sureties each for the like amount to the satisfaction of the said officer and subject to the following conditions:

1. 4th Petitioner (5th accused) shall report before the Investigating Officer between 9 a.m. and 11 a.m. on all Wednesdays.

2. 4th petitioner shall make himself available for interrogation as and when required by the Investigating Officer.

3. 4th petitioner shall not influence or intimidate the prosecution witnesses nor shall he attempt to tamper with the evidence for the prosecution.

4. 4th petitioner shall not commit any offence while on bail.

5. 4th petitioner shall surrender before the Magistrate concerned and seek regular bail in the meanwhile.

If the 4th petitioner commits breach of any of the above conditions, the bail granted to him shall be liable to be cancelled.

Petitioners 1 to 3 who are accused 2 to 4 shall surrender before the Investigating Officer on any day between 23.1.2007 and 25.1.2007 for the purpose of custodial interrogation and recovery of incriminating materials, if any. They shall be produced before the Magistrate concerned on the same day. The Magistrate shall consider and dispose of the application for regular bail, if any, filed by the petitioners preferably on the same date on which it is filed.

This application is allowed in part as above.

V.RAMKUMAR, JUDGE

dsn